

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1484
OFFERED BY MR. MCNERNEY OF CALIFORNIA**

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Veterans Appeals Im-
3 provement Act of 2011”.

**4 SEC. 2. WAIVER OF REGIONAL OFFICE JURISDICTION OVER
5 INCORPORATION OF SUPPLEMENTAL EVI-
6 DENCE INTO PREVIOUSLY SUBMITTED
7 CLAIMS.**

8 (a) WAIVER.—Section 7104 of title 38, United States
9 Code, is amended by adding at the end the following new
10 subsection:

11 “(f) If a claimant or the claimant’s representative
12 submits new evidence in support of a case for which a sub-
13 stantive appeal has been filed, such evidence shall be sub-
14 mitted to the Board directly and not to the agency of juris-
15 diction, unless the claimant or the claimant’s representa-
16 tive requests that the evidence be reviewed by the agency
17 of jurisdiction before being submitted to the Board.”.

1 (b) EFFECTIVE DATE.—Subsection (f) of section
2 7104 of title 38, United States Code, as added by sub-
3 section (a) of this section, shall apply with respect to evi-
4 dence submitted on or after the date that is 90 days after
5 the date of the enactment of this Act.

6 **SEC. 3. COMMISSION TO STUDY JUDICIAL REVIEW OF THE**
7 **DETERMINATION OF VETERANS' BENEFITS.**

8 (a) ESTABLISHMENT.—There is established a com-
9 mission to be known as the “Veterans Judicial Review
10 Commission” (in this section referred to as the “Commis-
11 sion”).

12 (b) DUTIES.—The Commission shall—

13 (1) evaluate the administrative and judicial ap-
14 pellate review processes of veterans’ and survivors’
15 benefits determinations; and

16 (2) make specific recommendations and offer
17 solutions to improve the accuracy, fairness, trans-
18 parency, predictability, timeliness, and finality of
19 such appellate review processes, including a rec-
20 ommendation as to whether the Court of Appeals for
21 Veterans Claims should have the authority to hear
22 class action or associational standing cases.

23 (c) MEMBERSHIP.—

24 (1) IN GENERAL.—The Commission shall be
25 composed of 13 members appointed as follows:

1 (A) Two individuals appointed by the
2 Speaker of the House of Representatives.

3 (B) Two individuals appointed jointly by
4 the President of the Senate and the President
5 pro tempore.

6 (C) Two individuals appointed by the mi-
7 nority leader of the House of Representatives.

8 (D) Two individuals appointed by the mi-
9 nority leader of the Senate.

10 (E) Four individuals appointed by the
11 President.

12 (F) One individual appointed by the Presi-
13 dent, by and with the advice and consent of the
14 Senate, who shall serve as chairperson.

15 (2) QUALIFICATIONS.—Individuals appointed
16 under paragraph (1) shall—

17 (A) be specially qualified to serve on the
18 Commission by virtue of their expert education,
19 training, or experience associated with veterans’
20 benefits, judicial review, constitutional law, or
21 other areas of expertise pertinent to the duties
22 of the Commission; and

23 (B) include individuals who—

24 (i) are current or retired members of
25 the judiciary;

1 (ii) are members of the legal or aca-
2 demic community; or

3 (iii) represent—

4 (I) veterans service organizations;

5 (II) legal service organizations;

6 or

7 (III) other affected entities.

8 (3) TERMS.—Each member shall be appointed
9 for the life of the Commission.

10 (4) VACANCY.—A vacancy in the Commission
11 shall be filled in the manner in which the original
12 appointment was made.

13 (d) MEETINGS.—

14 (1) IN GENERAL.—The Commission shall meet
15 at the call of the Chairperson or a majority of its
16 members.

17 (2) QUORUM.—A majority of the Commission
18 shall constitute a quorum but a lesser number may
19 hold hearings.

20 (e) PAY.—

21 (1) RATES OF PAY.—Except as provided in
22 paragraph (2), members shall serve without pay.

23 (2) TRAVEL EXPENSE.—Each member shall re-
24 ceive travel expenses, including per diem in lieu of
25 subsistence, in accordance with applicable provisions

1 under subchapter I of chapter 57 of title 5, United
2 States Code.

3 (f) STAFF.—

4 (1) DIRECTOR.—The Commission shall have a
5 director who shall be appointed by the Chairperson.

6 (2) STAFF.—Subject to rules prescribed by the
7 Commission, the Chairperson may appoint additional
8 personnel as the Chairperson considers appropriate.

9 (3) APPLICABILITY OF CERTAIN CIVIL SERVICE
10 LAWS.—The director and staff of the Commission
11 shall be appointed subject to the provisions of title
12 5, United States Code, governing appointments in
13 the competitive service, and shall be paid in accord-
14 ance with the provisions of chapter 51 and sub-
15 chapter III of chapter 53 of that title relating to
16 classification and General Schedule pay rates.

17 (4) EXPERTS AND CONSULTANTS.—Subject to
18 rules prescribed by the Commission, the Chairperson
19 may procure temporary and intermittent services
20 under section 3109(b) of title 5, United States Code.

21 (5) STAFF TO FEDERAL AGENCIES.—Upon re-
22 quest of the Chairperson, the head of any Federal
23 department or agency may detail, on a reimbursable
24 basis, any of the personnel of that department or

1 agency to the Commission to assist it in carrying out
2 its duties under this section.

3 (g) POWERS OF COMMISSION.—

4 (1) HEARINGS AND SESSIONS.—The Commis-
5 sion may, for the purpose of carrying out this Act,
6 hold hearings, sit and act at times and places, take
7 testimony, and receive evidence as the Commission
8 considers appropriate. The Commission may admin-
9 ister oaths or affirmations to witnesses appearing
10 before it.

11 (2) POWERS OF MEMBERS AND AGENTS.—Any
12 member or agent of the Commission may, if author-
13 ized by the Commission, take any action which the
14 Commission is authorized to take by this section.

15 (3) OBTAINING OFFICIAL DATA.—The Commis-
16 sion may secure directly from any department or
17 agency of the United States information necessary
18 to enable it to carry out this Act. Upon request of
19 the Chairperson of the Commission, the head of that
20 department or agency shall furnish that information
21 to the Commission.

22 (4) MAILS.—The Commission may use the
23 United States mails in the same manner and under
24 the same conditions as other departments and agen-
25 cies of the United States.

1 (5) ADMINISTRATIVE SUPPORT SERVICES.—

2 Upon the request of the Commission, the Adminis-
3 trator of General Services shall provide to the Com-
4 mission, on a reimbursable basis, the administrative
5 support services necessary for the Commission to
6 carry out its responsibilities under this Act.

7 (h) REPORTS.—

8 (1) INTERIM REPORT.—Not later than July 1,
9 2012, the Commission shall submit to Congress an
10 interim report of the evaluation and recommenda-
11 tions made under subsection (b).

12 (2) FINAL REPORT.—Not later than December
13 31, 2012, the Commission shall submit to Congress
14 a final report on the activities of the Commission,
15 including—

16 (A) specific recommendations and solutions
17 proposed by the Commission under subsection
18 (b), including a recommendation as to whether
19 the Court of Appeals for Veterans Claims
20 should have the authority to hear class action
21 or associational standing cases;

22 (B) relevant background and statistical in-
23 formation associated with such recommenda-
24 tions and solutions; and

1 (C) other information the Commission de-
2 termines appropriate.

3 (i) TERMINATION.—The Commission shall terminate
4 on the date that is two years after the date on which the
5 Commission submits the final report pursuant to section
6 (h)(2).

